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New USCIS Policy on Unlawful Presence for Students and Exchange Visitors

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The **new immigration policy** is that the accrual of **unlawful presence** is suspended when students and exchange visitors (F, J or M nonimmigrant) file a reinstatement application within five months of falling **out of status**, and while the application is pending with USCIS. In general, an F, J, or M nonimmigrant whose application for **reinstatement** (timely filed or otherwise) that is approved will not accrue unlawful presence while out of status.

The accrual of unlawful presence resumes the day after the reinstatement's denial, and the nonimmigrant must **voluntarily depart the United States** to avoid accruing more unlawful presence that could trigger future **inadmissibility** under section 212(a)(9) of the Immigration and Nationality Act.

For additional information, please visit: <https://www.uscis.gov/news/uscis-issues-revised-final-guidance-unlawful-presence-students-and-exchange-visitors>

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This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship. By Aik Wan Kok, Lawyer USA Immigration Services, at Tiya; Tel: [703-772-8224](tel:703-772-8224) & info at [tiyaimmigration dot com](mailto:tiyaimmigration.com); Direct dial from abroad: [001-703-7728224](tel:001-703-7728224); <https://www.tiyaimmigration.com> ; <http://tiyalaw.blogspot.com> ; <https://immigrationresource.net>

Aik Wan Kok at Tiya **represents companies, employers, individuals and families, located nationwide and internationally, in U.S. Immigration Law.** We focus on diverse immigration cases such as extraordinary ability; national interest waiver; PERM; green card; N-400 Naturalization; various waivers; H cases; L executive, manager and specialized knowledge professional; E treaty investor/trader; cases with USCIS, U.S. Department of Labor, U.S. Consulates and National Visa Center.

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